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Pacer K. Udall Schmeiser, Olsen & Watts LLP #101 18 East University Drive Mesa, AZ 85201			EXAMINER COURSON, TANIA C	
			ART UNIT 2859	PAPER NUMBER
DATE MAILED: 04/23/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,239

Applicant(s)

CONNELLY, WILLIAM L.

Examiner

Tania C. Courson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 21JUL03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 1-5, 9-16 are objected to because of the following informalities:
 - a) claim 1, line 8, “an archery bow” should read “the archery bow”;
 - b) claim 2, line 4, “an archery bow” should read “the archery bow”;
 - c) claim 3, line 5, “an archery bow” should read “the archery bow”;
 - d) claim 4, line 2, “a tether” should read “the tether”;
 - e) claim 4, line 5, “an archery bow” should read “the archery bow”;
 - f) claim 5, line 7, “an archery bow” should read “the archery bow”;
 - g) claim 9, line 5, “an archery bow” should read “the archery bow”;
 - h) claim 9, line 7, “a tether” should read “the tether”;
 - i) claim 10, line 1, “a tether” should read “the tether”;
 - j) claim 10, line 5, “an archery bow” should read “the archery bow”;
 - k) claim 11, line 7, “an archery bow” should read “the archery bow”;
 - l) claim 12, line 5, “a peep sight” should read “the peep sight”;
 - m) claim 13, line 2, “a sight body” should read “the sight body”;
 - n) claim 13, line 3, “a tether-securing aperture” should read “the tether-securing aperture”;
 - o) claim 13, line 5, “an archery bow” should read “the archery bow”;
 - p) claim 14, line 5, “an archery bow” should read “the archery bow”;
 - q) claim 15, lines 7-8, “an archery bow” should read “the archery bow”;
 - r) claim 15, line 13, “an archery bow” should read “the archery bow”;

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s) claim 15, line 20, "an archery bow" should read "the archery bow";

t) claim 16, line 4, "an archery bow" should read "the archery bow";

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Saunders (US 4,563,821).

Saunders discloses in Figures 1-4, a peep sight system for an archery bow comprising:

- a) an interfacing clip comprising a first side and an opposing second side (Fig. 4, cable clip 30), the first side and the opposing second side each comprising a power cable channel (Fig. 3, web 200) and a tether channel (Fig. 4, arms 208 & 210).

With respect to the term "adapted to" in claim 5: Saunders discloses a power cable channel having opposing power cable channels which are considered to be "adapted to" removably receive and retain a portion of a power cable of an archery bow and to removably

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receive and retain a second end portion of a tether as stated in the claim. Furthermore, the term “adapted to” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “adapted to” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

4. Claims 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (US 5,996,569).

Wilson discloses in Figures 1-3, a peep sight system for an archery bow comprising:

- a) a solid, thermoplastic elastomer tether having opposing first and second end portions (Fig. 2A, elastic cord 30), a tether securing aperture substantially within a sight body of a peep sight (Fig. 2A, hole 28 and peep sight 10), a second end portion substantially within an interfacing clip (Fig. 1, mount 32);
- b) the sight body having a thickness and a width (Fig. 2A), a sight aperture (Fig. 2A, sight portion 40) and the tether-securing aperture, each extending through a thickness of the sight body (Fig. 2A) and the tether-securing aperture removably receiving and retaining the first end portion of the tether substantially within the sight body (Fig. 2A).

With respect to the term “adapted to” in claim 11: Wilson discloses a tether having a first end portion which is considered to be “adapted to” be removably coupled as stated in the

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claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to the term “ adapted to ” in claim 11: Wilson discloses a tether having a second end portion which is considered to be “ adapted to ” be removably coupled as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to claim 11: With respect to the intended use of the apparatus, e.g. such that when the archery bow is moved into its fully drawn position, tension in the tether aligns the peep sight: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

With respect to the term “ adapted to ” in claim 13: Wilson discloses a sight aperture which is considered to be “ adapted to ” allow a line of sight through the aperture when the archery bow is fully drawn as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the

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recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cranston (US 6,131,295) in view of Beutler (US 5,148,603).

Cranston discloses a sight system for an archery bow having a peep sight having a thickness and a width and a sight aperture (Fig. 6, sight 70 and sight element 82) and having a tether connection (Fig. 6).

Cranston does not disclose a tether connection having a tether-securing aperture extending through a thickness of the sight body.

With respect to a tether connection having a tether-securing aperture extending through a thickness of the sight body, Beutler teaches a sight comprising a tether connection having a tether-securing aperture extending through a thickness of the sight body (Fig. 2, cavity 25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the

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invention was made to further modify the sight system for an archery bow of Cranston, so as to replace Cranstons' tether connection with the tether connection having a tether-securing aperture extending through a thickness of the sight body, as taught by Beutler, because both are well known alternate types of connections which will perform the same function, if one is replaced with the other, of maintaining the tether.

With respect to the term "adapted to" in claim 1: Cranston and Beutler disclose a sight aperture which is considered to be "adapted to" allow a line of sight through the aperture when the archery bow is fully drawn and a tether-securing aperture which is considered to be "adapted to" removably receive and retain a first end portion of a tether substantially within the sight body as stated in the claim. Furthermore, the term "adapted to" makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is "adapted to" perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

7. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cranston and Beutler, as applied to claim 1 as stated above, and further in view of Morris et al. (US 5,379,747) and Saunders (US 4,563,821).

Cranston and Beutler disclose a sight system for an archery bow as stated above in paragraph 6.

Cranston and Beutler further disclose a peep sight having a serving channel girdling the sight body substantially at the midpoint of its thickness (Fig. 6, channels 74a) and a tether having

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opposing first and second end portions (Fig. 1), the first end removably coupled into the tether-securing aperture substantially within the sight body (Fig. 2, cavity 25).

Cranston and Beutler do not disclose a serving hole extending through the width of the sight body connecting opposing serving channel portions and a tether connection having an interfacing clip comprising a first side and an opposing second side, the first side and the opposing second side each comprising a power cable channel and a tether channel.

With respect to a serving hole extending through the width of the sight body connecting opposing serving channel portions, Morris et al. teaches sight device comprising a serving hole extending through the width of the sight body connecting opposing serving channel portions (Fig. 1, channel 42). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston and Beutler, so as to include a serving hole extending through the width of the sight body connecting opposing serving channel portions, as taught by Morris et al., so as to provide additional lateral stabilization during use of the device.

With respect to the term “adapted to” in claim 2: Cranston, Beutler and Morris et al. disclose a serving channel which is considered to be “adapted to” accommodate at least one strand of a bow string of an archery bow as stated in the claim. Furthermore, the term “adapted to” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “adapted to” perform a function only requires the

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ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to the term “ adapted to ” in claim 2: Cranston, Beutler and Morris et al. disclose a serving hole which is considered to be “ adapted to ” receive a serving string therethrough as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to claim 2: It has been held that the functional statement “thereby”, which is similar to the term “whereby” which does not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

With respect to a tether connection having an interfacing clip comprising a first side and an opposing second side, the first side and the opposing second side each comprising a power cable channel and a tether channel, Saunders teaches a tether connection having an interfacing clip comprising a first side and an opposing second side (Fig. 4, cable clip 30), the first side and the opposing second side each comprising a power cable channel (Fig. 3, web 200) and a tether channel (Fig. 4, arms 208 & 210). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston and Beutler, so as to replace Cranston and Beutler’s tether connection

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with the tether connection having an interfacing clip, as taught by Saunders, because both are well known alternate types of connections which will perform the same function, if one is replaced with the other, of maintaining the tether.

With respect to the term “ adapted to ” in claim 3: Cranston, Beutler and Saunders disclose a power cable channel having opposing power cable channels which are considered to be “ adapted to ” removably receive and retain a portion of a power cable of an archery bow and to removably receive and retain a second end portion of a tether as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to the term “ adapted to ” in claim 4: Cranston, Beutler and Saunders disclose a tether having a second end portion which is considered to be “ adapted to ” removably coupled substantially within an interfacing clip as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to claim 4: With respect to the intended use of the apparatus, e.g. such that when the archery bow is moved into its fully drawn position, tension in the tether aligns the peep sight: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

8. Claims 6-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saunders in view of Troncoso (US 4,656,747) and Spack (US 3,071,127).

Saunders further discloses the tether having opposing first and second end portions (Fig. 2, adjustable band 34).

Saunders discloses a peep sight system for an archery bow, as stated above in paragraph 3.

Saunders does not disclose a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing aperture and an alignment recess and opposing tether channels comprising at least one tether retaining rib, wherein each opposing tether channel is bent and a tether having a second end portion removably coupled substantially within opposing tether channels.

With respect to a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing aperture and an alignment recess, Troncoso teaches a device that consists of a first side having a securing aperture and an alignment shaft (Fig. 11, aperture and shaft 50) and wherein a second side comprises a second securing aperture and an

alignment recess (Fig. 11, aperture and recess 52). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the peep sight system for an archery bow of Saunders, so as to include a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing aperture and an alignment recess, as taught by Troncoso, so as to provide a greater enhancement in securing one side to the other during use of the device.

With respect to the term “ adapted to ” in claim 6: Saunders and Troncoso disclose first and second securing apertures and an alignment shaft and recess which are considered to be “ adapted to ” adapted to receive a fastener for removably coupling the first side and the second side together and to align the opposing tether channels and the opposing power cable channels, respectively. as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138.

With respect to a opposing tether channels comprising at least one tether retaining rib, wherein each opposing tether channel is bent and a tether having a second end portion removably coupled substantially within opposing tether channels, Spack teaches a device that consists of opposing tether channels comprising at least one tether retaining rib (Fig. 3, hole 32), wherein each opposing tether channel is bent (Fig. 4) and a tether having a second end portion removably coupled substantially within opposing tether channels (Fig. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further

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modify the peep sight system for an archery bow of Saunders, so as to include a tether having a second end portion removably coupled substantially within opposing tether channels, as taught by Spack, so as to provide flexibility in replacing the tether during use of the device.

With respect to the term “ adapted to ” in claim 10: Saunders and Spack disclose the tether having a first end portion which is considered to be “ adapted to ” adapted to be removably coupled into a tether-securing aperture substantially within a sight body of a peep sight as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138.

With respect to claim 10: With respect to the intended use of the apparatus, e.g. such that when the archery bow is moved into its fully drawn position, tension in the tether aligns the peep sight: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

9. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cranston in view of Saunders.

Cranston discloses a sight system for an archery bow having a tether connection (Fig. 1 and column 3, line 37-41).

Cranston does not disclose a tether connection having an interfacing clip comprising a first side and an opposing second side, the first side and the opposing second side each comprising a power cable channel and a tether channel.

With respect to a tether connection having an interfacing clip comprising a first side and an opposing second side, the first side and the opposing second side each comprising a power cable channel and a tether channel, Saunders teaches a tether connection having an interfacing clip comprising a first side and an opposing second side (Fig. 4, cable clip 30), the first side and the opposing second side each comprising a power cable channel (Fig. 3, web 200) and a tether channel (Fig. 4, arms 208 & 210). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston, so as to replace Cranstons' tether connection with the tether connection having an interfacing clip, as taught by Saunders, because both are well known alternate types of connections which will perform the same function, if one is replaced with the other, of maintaining the tether.

With respect to the term "adapted to" in claim 5: Cranston and Saunders disclose a power cable channel having opposing power cable channels which are considered to be "adapted to" removably receive and retain a portion of a power cable of an archery bow and to removably receive and retain a second end portion of a tether as stated in the claim. Furthermore, the term "adapted to" makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is "adapted to" perform a function only requires

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the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

10. Claims 6-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cranston and Saunders, as applied to claims 5 and 9 as stated above, and further in view of Troncoso and Spack.

Cranston and Saunders disclose a sight system for an archery bow as stated above in paragraph 9.

Cranston and Saunders do not disclose a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing aperture and an alignment recess and opposing tether channels comprising at least one tether retaining rib, wherein each opposing tether channel is bent and a tether having a second end portion removably coupled substantially within opposing tether channels.

With respect to a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing aperture and an alignment recess, Troncoso teaches a device that consists of a first side having a securing aperture and an alignment shaft (Fig. 11, aperture and shaft 50) and wherein a second side comprises a second securing aperture and an alignment recess (Fig. 11, aperture and recess 52). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston and Saunders, so as to include a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing

aperture and an alignment recess, as taught by Troncoso, so as to provide a greater enhancement in securing one side to the other during use of the device.

With respect to the term “ adapted to ” in claim 6: Cranston, Saunders and Troncoso disclose first and second securing apertures and an alignment shaft and recess which are considered to be “ adapted to ” adapted to receive a fastener for removably coupling the first side and the second side together and to align the opposing tether channels and the opposing power cable channels, respectively. as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to a opposing tether channels comprising at least one tether retaining rib, wherein each opposing tether channel is bent and a tether having a second end portion removably coupled substantially within opposing tether channels, Spack teaches a device that consists of opposing tether channels comprising at least one tether retaining rib (Fig. 3, hole 32), wherein each opposing tether channel is bent (Fig. 4) and a tether having a second end portion removably coupled substantially within opposing tether channels (Fig. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston and Saunders, so as to include a tether having a second end portion removably coupled substantially within opposing tether channels, as taught by Spack, so as to provide flexibility in replacing the tether during use of the device.

With respect to the term “ adapted to ” in claim 10: Cranston, Saunders and Spack disclose the tether having a first end portion which is considered to be “ adapted to ” adapted to be removably coupled into a tether-securing aperture substantially within a sight body of a peep sight as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to claim 10: With respect to the intended use of the apparatus, e.g. such that when the archery bow is moved into its fully drawn position, tension in the tether aligns the peep sight: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

11. Claims 11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cranston in view of Beutler and Saunders.

Cranston discloses a sight system for an archery bow having a peep sight having a sight body having a thickness and a width (Fig. 6, sight 70) and a solid thermoplastic elastomer tether (Fig. 6, elastomeric element 54) and a tether connection (Fig. 1) and a sight aperture (Fig. 6, sight element 82).

Cranston does not disclose a tether-securing aperture extending through a thickness of the sight body, a tether connection having a first end portion having the tether-securing aperture

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substantially within a sight body of a peep sight and a tether connection having a second end portion substantially within an interfacing clip, the interfacing clip comprising a first side and an opposing second side each comprising a power cable channel and a tether channel and opposing tether channels removably receiving and retaining the second end portion of the tether.

With respect to a tether-securing aperture extending through a thickness of the sight body and a tether connection having a first end portion having the tether-securing aperture substantially within a sight body of a peep sight, Beutler teaches a sight comprising a tether-securing aperture extending through a thickness of the sight body and a tether connection having a first end portion having the tether-securing aperture substantially within a sight body of a peep sight. (Fig. 2, cavity 25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston, so as to replace Cranstons' tether connection with the tether connection having a first end portion having the tether-securing aperture substantially within the sight body, as taught by Beutler, because both are well known alternate types of connections which will perform the same function, if one is replaced with the other, of maintaining the tether.

With respect to a tether connection having a second end portion substantially within an interfacing clip, the interfacing clip comprising a first side and an opposing second side each comprising a power cable channel and a tether channel and opposing tether channels removably receiving and retaining the second end portion of the tether, Saunders teaches a device comprising a tether connection having a second end portion substantially within an interfacing

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clip (Fig. 3, cable clip 30), the interfacing clip comprising a first side and an opposing second side each comprising a power cable channel and a tether channel (Fig. 4, web 200 and arms 108 and 210) and opposing tether channels removably receiving and retaining the second end portion of the tether (Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston, so as to replace Cranstons' tether connection with the tether connection having a second end portion substantially within an interfacing clip, as taught by Saunders, because both are well known alternate types of connections which will perform the same function, if one is replaced with the other, of maintaining the tether.

With respect to the term "adapted to" in claim 11: Cranston and Beutler disclose a tether having a first end portion which is considered to be "adapted to" be removably coupled as stated in the claim. Furthermore, the term "adapted to" makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is "adapted to" perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to the term "adapted to" in claim 11: Cranston and Saunders disclose a tether having a second end portion which is considered to be "adapted to" be removably coupled as stated in the claim. Furthermore, the term "adapted to" makes what follows a functional statement and not a positive limitation because it has been held that the recitation that

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an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to claim 11: With respect to the intended use of the apparatus, e.g. such that when the archery bow is moved into its fully drawn position, tension in the tether aligns the peep sight: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

With respect to the term “ adapted to ” in claim 13: Cranston and Saunders disclose a sight aperture which is considered to be “ adapted to ” allow a line of sight through the aperture when the archery bow is fully drawn as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to the term “ adapted to ” in claim 14: Cranston and Saunders disclose a power cable channel which is considered to be “ adapted to ” removably receive and retain a portion of a power cable of the archery bow as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires

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the ability to so perform. It does not constitute a limitation in any patentable sense. *In re*

Hutchinson, 69 USPQ 138.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cranston, Beutler and Saunders, as applied to claims 11 and 13-14 as stated above, and further in view of Spack.

Cranston, Beutler and Saunders disclose a sight system for an archery bow as stated above in paragraph 11.

Cranston, Beutler and Saunders do not disclose a tether having a first retaining member and a second retaining member separated by a circumferential curvilinear recess.

With respect to a tether having a first retaining member and a second retaining member separated by a circumferential curvilinear recess, Spack teaches a device that consists of a tether having a first retaining member and a second retaining member separated by a circumferential curvilinear recess (Fig. 3, knots 34). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston, Beutler and Saunders, so as to include a tether having a first retaining member and a second retaining member separated by a circumferential curvilinear recess, as taught by Spack, so as to provide enhanced securement of the tether during use of the device.

With respect to the term “ adapted to ” in claim 12: Cranston, Beutler, Saunders and Spack disclose the tether having a first retaining member which is considered to be “ adapted to ”

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adapted to removably retain the first end portion of the tether in a tether-securing aperture of the peep sight when the self-aligning peep sight system is in use as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

In re Hutchinson, 69 USPQ 138.

With respect to the term “ adapted to ” in claim 12: Cranston, Beutler, Saunders and Spack disclose the tether having a second retaining member which is considered to be “ adapted to ” adapted to removably retain the first end portion of the tether in a tether-securing aperture of the peep sight when the self-aligning peep sight system is not in use as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to the term “ adapted to ” in claim 12: Cranston, Beutler, Saunders and Spack disclose the tether having a recess which is considered to be “ adapted to ” adapted to removably couple to a retaining portion of the tether-securing aperture of the peep sight as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted

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to " perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138.

13. Claims 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cranston in view of Saunders and Beutler.

Cranston discloses a sight system for an archery bow having a peep sight having a sight body having a thickness and a width (Fig. 6, sight 70) and a solid thermoplastic elastomer tether connection (Fig. 6, elastomeric element 54) having opposing first end and second end portions (Fig. 1) and a sight aperture (Fig. 6, sight element 82).

Cranston does not disclose a tether-securing aperture extending through a thickness of the sight body, a tether connection having a first end portion removably coupled into the tether-securing aperture substantially within a sight body and a tether connection having a second end portion removably coupled substantially within the opposing tether channels of the interfacing clip, the interfacing clip comprising a first side and an opposing second side each comprising a power cable channel and a tether channel.

With respect to a tether-securing aperture extending through a thickness of the sight body and a tether connection having a first end portion removably coupled into the tether-securing aperture substantially within a sight body, Beutler teaches a sight comprising a tether-securing aperture extending through a thickness of the sight body and a tether connection having a first end portion removably coupled into the tether-securing aperture substantially within a sight body (Fig. 2, cavity 25). Therefore, it would have been obvious to one having ordinary skill in the art

at the time the invention was made to further modify the sight system for an archery bow of Cranston, so as to replace Cranstons' tether connection with the a tether connection having a first end portion removably coupled into the tether-securing aperture, as taught by Beutler, because both are well known alternate types of connections which will perform the same function, if one is replaced with the other, of maintaining the tether.

With respect to a tether connection having a second end portion removably coupled substantially within the opposing tether channels of the interfacing clip, the interfacing clip comprising a first side and an opposing second side each comprising a power cable channel and a tether channel, Saunders teaches a device comprising a tether connection having a second end portion removably coupled substantially within the opposing tether channels of the interfacing clip (Fig. 3, cable clip 30), the interfacing clip comprising a first side and an opposing second side each comprising a power cable channel and a tether channel (Fig. 4, web 200 and arms 108 and 210). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston, so as to replace Cranstons' tether connection with the tether connection having a second end portion substantially within an interfacing clip, as taught by Saunders, because both are well known alternate types of connections which will perform the same function, if one is replaced with the other, of maintaining the tether.

With respect to the term " adapted to " in claim 15: Cranston, Saunders and Beutler disclose a sight aperture which is considered to be " adapted to " allow a line of sight through

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the aperture when the archery bow is fully drawn as stated in the claim. Furthermore, the term “adapted to” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “adapted to” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138.

With respect to the term “adapted to” in claim 15: Cranston, Saunders and Beutler disclose opposing power cable channels which are considered to be “adapted to” removably receive and retain a portion of a power cable of the archery bow as stated in the claim. Furthermore, the term “adapted to” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “adapted to” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138.

With respect to claim 15: With respect to the intended use of the apparatus, e.g. for positioning the peep sight in the aligned position where the line of sight is allowed through the sight aperture to the target and such that when the archery bow is moved into its fully drawn position, tension in the tether aligns the peep sight: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

14. Claims 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cranston, Saunders and Beutler, as applied to claims 15 and 19 as stated above, and further in view of Morris et al., Troncoso and Spack

Cranston, Saunders and Beutler disclose a sight system for an archery bow as stated above in paragraph 13.

Cranston, Saunders and Beutler further disclose a peep sight having a serving channel girdling the sight body substantially at the midpoint of its thickness (Fig. 6, channels 74a) and

Cranston, Saunders and Beutler do not disclose a serving hole extending through the width of the sight body connecting opposing serving channel portions, a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing aperture, an alignment recess, the alignment shaft inserted into the alignment recess, wherein each opposing tether channel is bent and opposing tether channels comprise at least one tether retaining rib, the tether having a first retaining member and a second retaining member separated by a circumferential curvilinear recess and a press fit sleeve removably coupling the first and second retaining members and the circumferential, curvilinear recess..

With respect to a serving hole extending through the width of the sight body connecting opposing serving channel portions, Morris et al. teaches sight device comprising a serving hole extending through the width of the sight body connecting opposing serving channel portions (Fig. 1, channel 42). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston, Saunders and Beutler, so as to include a serving hole extending through the width of

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the sight body connecting opposing serving channel portions, as taught by Morris et al., so as to provide additional lateral stabilization during use of the device.

With respect to the term “ adapted to ” in claim 16: Cranston, Saunders, Beutler and Morris et al. disclose a serving channel which is considered to be “ adapted to ” accommodate at least one strand of a bow string of an archery bow as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to the term “ adapted to ” in claim 16: Cranston, Saunders, Beutler and Morris et al. disclose a serving hole which is considered to be “ adapted to ” receive a serving string therethrough as stated in the claim. Furthermore, the term “ adapted to ” makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is “ adapted to ” perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

With respect to claim 16: It has been held that the functional statement “thereby”, which is similar to the term “whereby” which does not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

With respect to a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing aperture and an alignment recess and the alignment shaft inserted into the alignment recess, Troncoso teaches a device that consists of a first side having a securing aperture and an alignment shaft (Fig. 11, aperture and shaft 50) and wherein a second side comprises a second securing aperture and an alignment recess (Fig. 11, aperture and recess 52) and the alignment shaft inserted into the alignment recess (Fig. 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston, Saunders and Beutler, so as to include a first side having a securing aperture and an alignment shaft and wherein a second side comprises a second securing aperture and an alignment recess and the alignment shaft inserted into the alignment recess, as taught by Troncoso, so as to provide a greater enhancement in securing one side to the other during use of the device.

With respect to claim 17: It has been held that the functional statement “thereby”, which is similar to the term “whereby” which does not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

With respect to wherein each opposing tether channel is bent and opposing tether channels comprise at least one tether retaining rib, the tether having a first retaining member and a second retaining member separated by a circumferential curvilinear recess and a press fit sleeve removably coupling the first and second retaining members and the circumferential, curvilinear

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recess, Spack teaches a device that consists of a wherein each opposing tether channel is bent (Fig. 4) and opposing tether channels comprise at least one tether retaining rib (Fig. 3, hole 32), the tether having a first retaining member and a second retaining member separated by a circumferential curvilinear recess (Fig. 3, knots 34) and a press fit sleeve removably coupling the first and second retaining members and the circumferential, curvilinear recess (Fig. 3, slot 30). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the sight system for an archery bow of Cranston, Saunders and Beutler, so as to include a tether having a retaining members separated by a circumferential curvilinear recess, as taught by Spack, so as to provide enhanced securement of the tether during use of the device.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a peep sight system:

Sullivan, Jr. et al. (US 5,253,423)

Saunders (US 4,965,938)

Topel (US 4,961,264)

Treaster (US 4,848,306)

Treaster (US 4,552,121)

Topel (US 4,116,194)

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
April 18, 2004